

REMARKS

Claims 1, 3-23 are pending in this application, claims 10-17 having been withdrawn.

Claims 1, 3-9, and 18-23 are rejected. Claims 1, 8, and 18 are amended, and claim 24 is added hereby.

Responsive to the rejection of claims 1, 5, and 18-19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,740,906 (Lai), claims 1 and 18-20 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,111,939 (Schafer), claim 1 under 35 U.S.C. § 103(a) as being obvious over Schafer in view of U.S. Patent No. 5,680,957 (Liu), and claims 8-9 under 35 U.S.C. § 103(a) as being obvious over Schafer in view of U.S. Patent No. 5,518,139 (Trower et al.), Applicants have amended claims 1, 8, and 18. Accordingly, Applicants submit that claims 1, 8, and 18, and claims 3-7, 9, and 19-23 depending respectively therefrom, are now in condition for allowance.

Lai discloses a container combination for stationary goods. This container combination includes a central container assembly 2 and a lateral container assembly 1 mounted on a common base plate 50. Lateral container assembly 1 includes a top container 13, a bottom container 132, and a middle container (apparently unnumbered). Top container 13 may have an enclosure lid 10.

Schafer discloses a stacked structure including a plurality of identical box-like units 10 including rear wall means 18, a flat floor 22, a roof 25, and a front wall means or planar face 26. Units 10 are arranged one atop the other such that each unit presents a front face 26 angled to the vertical in such fashion that front face 26 of each unit forms a dihedral angle with its next lower and next upper unit. That is, the roof and floor of each unit diverge rearwardly and are, thus, nonparallel. The slope of the roof of each unit provides a non-horizontal support for the next higher or second unit, wherein that second unit may be said to have a slight forward “tilt” such that its front face 26 is not coplanar with the front face 26 of the base unit. Nor is the front face

26 of the third unit coplanar with the front face 26 of the second unit (Abstract; column 2, lines 39-50). Front face 26 of the base slopes rearwardly away from a vertical 40 forming an angle D. Front face 26 of the second unit slopes away from a vertical 42 at an angle E. Front face 26 of the third unit slopes away from a vertical 44 by an angle F (Fig. 5). Angle F is less than angle E, and angle E is less than angle D (column 2, lines 61-64). For each unit, the junction of the front face and the floor forms an angle B which is less than ninety degrees, while the junction of the front face and the roof forms an angle C which is greater than ninety degrees (column 2, lines 67-68). Furthermore, each unit is fixedly adhered floor-to-roof to its neighbor, except as to the floor of the lowermost unit which may be adhered or otherwise affixed to a supporting surface (column 1, lines 48-51).

Liu discloses drawer-type storage bins for stacking one on another. Fig. 2 shows the storage bins stacked but not offset from each other.

Trower et al. discloses a portable storage assembly. The storage assembly includes a bottom tub container 20, a series of at least two trays 22 (bottom tray) and 24 (top tray) which nest one within the other and which collectively nest in the tub container 20, and a cover 26 (Figs. 1 and 3). Bottom tray 22 is held in container 20 by cooperative engagement of peripheral rib 60 of bottom tray 22 and flange 54 defined around the periphery of container 20 (column 3, lines 12-21)(Fig. 8). Similarly, top tray 24 is held in bottom tray 22 by cooperative engagement of circumferential rib 60 of top tray 24 and peripheral rib 60 of bottom tray 22 (column 3, lines 47-57)(Fig. 8).

In contrast, claim 1, as amended, recites in part “a plurality of sterilization cases including a first sterilization case and a second sterilization case, said second sterilization case stacked directly upon said first sterilization case in a vertical direction, said second sterilization case offset from said first sterilization case in a frontward to rearward direction, each of said plurality of

sterilization cases being selectively movable between a closed position and an open position, said second sterilization case offset from said first sterilization case in a direction transverse to said vertical direction when both said first and said second sterilization cases are in closed positions, in said closed position each of said plurality of sterilization cases having a general box shape and including a plurality of walls defining said general box shape, in said closed position said plurality of walls of each of said plurality of sterilization cases including a top wall and a bottom wall, said top wall and said bottom wall of each of said plurality of sterilization cases being substantially parallel relative to one another in said closed position and generally horizontally oriented in said closed position, said bottom wall of said second sterilization case at least partially directly contacting said top wall of said first sterilization case when each of said first and said second sterilization cases are in said closed position, said first and said second sterilization cases being substantially identical to one another when each of said first and said second sterilization cases are in said closed position, each of said plurality of sterilization cases including at least one drawer therein selectively slidable from said closed position to said open position in a rearward to frontward direction.” (Emphasis added). Applicant submits that such an invention is neither taught, disclosed or suggested by Lai, Schafer, and Liu, or any of the other cited references, alone or in combination, and includes distinct advantages thereover.

Claim 8, as amended, recites in part “a plurality of sterilization cases including a first sterilization case and a second sterilization case, said second sterilization case offset from said first sterilization case in a frontward to rearward direction, said first sterilization case including at least one handle, said second sterilization case including at least one recessed pocket, at least one said handle interlocking with at least one said recessed pocket when said second sterilization case is stacked upon said first sterilization case in a vertical direction, each of said plurality of sterilization cases being selectively movable between a closed position and an open position, in

said closed position each of said plurality of sterilization cases having a general box shape and including a plurality of walls defining said general box shape, in said closed position said plurality of walls of each of said plurality of sterilization cases including a top wall and a bottom wall, said top wall and said bottom wall of each of said plurality of sterilization cases being substantially parallel relative to one another in said closed position and generally horizontally oriented in said closed position, said bottom wall of said second sterilization case at least partially directly contacting said top wall of said first sterilization case when said second sterilization case is stacked upon said first sterilization case in a vertical direction and when each of said first and said second sterilization cases are in said closed position, each of said plurality of sterilization cases including at least one drawer therein selectively slidable from said closed position to said open position in a rearward to frontward direction.” (Emphasis added). Applicant submits that such an invention is neither taught, disclosed or suggested by Schafer and Trower et al., or any of the other cited references, alone or in combination, and includes distinct advantages thereover.

Claim 18, as amended, recites in part “stacking a plurality of sterilization cases including a first sterilization case and a second sterilization case, said second sterilization case stacked directly upon said first sterilization case in a vertical direction; offsetting said second sterilization case from said first sterilization case in a frontward to rearward direction; providing both said first and said second sterilization cases are selectively movable between a closed position and an open position, each of said plurality of sterilization cases including at least one drawer therein selectively slidable from said closed position to said open position in a rearward to frontward direction; providing that in said closed position each of said first and said second sterilization cases have a general box shape and include a plurality of walls defining said general box shape, in said closed position said plurality of walls of each of said first and said second sterilization cases including a top wall and a bottom wall, said top wall and said bottom wall of each of said first and

said second sterilization cases being substantially parallel relative to one another in said closed position and generally horizontally oriented in said closed position, said bottom wall of said second sterilization case at least partially directly contacting said top wall of said first sterilization case when said second sterilization case is stacked upon said first sterilization case in a vertical direction and when each of said first and said second sterilization cases are in said closed position; and offsetting said second sterilization case from said first sterilization case in a direction transverse to said vertical direction when both said first and said second sterilization cases are in closed positions, said first and said second sterilization cases being substantially identical to one another when each of said first and said second sterilization cases are in said closed position." (Emphasis added). Applicant submits that such an invention is neither taught, disclosed or suggested by Lai and Schafer, or any of the other cited references, alone or in combination, and includes distinct advantages thereover.

Page 2 of the Office Action indicates that the first sterilization case of the present invention corresponds in Lai (Fig. 1) to bottom and middle containers together (the middle container being on top of the bottom container) and that the second sterilization case of the present invention corresponds in Lai to top container 13 and lid 10 which is on top of the top container. Fig. 1 of Lai shows a plurality of containers. These containers neither are drawers nor include drawers in the container. Thus, Lai fails to disclose sterilization cases each including at least one drawer therein selectively slidable from a closed position to an open position in a rearward to frontward direction.

Further, as clearly shown in Lai in the right-hand portion of the container combination in Figs. 1 and 2 (the portion focused on in the Office Actions), three separate containers are shown, not merely two. The bottom and middle containers are not a single container but are clearly

shown as two containers. Thus, combining the bottom container with the middle container and calling the two containers a single container is, respectfully, an inaccurate interpretation of Lai.

Further, the terms of “general box shape”, “substantially parallel”, “generally horizontally oriented”, and “substantially identical” of claims 1 and 18 mean to account for manufacturing tolerances; thus, for example, the first and second sterilization cases are at least virtually identical. This interpretation is readily apparent from the specification and drawings. Thus, the Office Action’s interpretation of “substantially identical” is, respectfully, far too expansive. Additionally, top container 13 is not substantially identical to the bottom/middle containers when lid 10 is on top container 13 and middle container is on bottom container 132. Lai, thus, fails to disclose first and second sterilization cases being substantially identical to one another in the closed position.

Further, Lai does not disclose a sterilization case at all. Lai indicates that the container combination is for storing stationary goods involved in “daily office work” (i.e., writing instruments, scissors, paper clips, staples)(column 1, 13-15).

The figures of Schafer show a plurality of units 10 stacked on each other. Each unit is configured to dispense a ticket 14 by “manually grasping a leading ticket 14 and pulling it rearwardly through exit or dispensing means 16 which may be of any design provided in a rear wall means 18 of each unit, preferably a removable cover normally key-locked in place as at 20.” (Column 2, lines 13-17)(see Figs. 4 and 5). In no way, respectfully, can this reasonably be interpreted as including a drawer that is included within each unit 10 and which slides out the rear of each unit 10. This is readily apparent because sliding a drawer out the rear of units 10 would render the array more unstable and likely cause the array to topple rearwardly – that is, in the direction that the array already tilts. Such instability and toppling would defeat the purpose of the array and the intricate design for providing a tilt to the array and keeping the array from toppling.

Thus, the very design of the stacked array, with the tilt, teaches away from using drawers to access the tickets. Thus, Schafer fails to disclose sterilization cases each including at least one drawer therein selectively slidable from a closed position to an open position in a rearward to frontward direction.

Further, the units 10 in Shafer are not stacked offset relative to one another at all. For instance the second unit 10 from the bottom is not stacked on the bottom unit 10 in an offset manner in a frontward to rearward direction; rather, the figures show that the units 10 are set in an aligned fashion on top of one another and merely present a tilt when stacked. Additionally, given the tilt, if the units 10 were stacked offset (assuming this is possible) in a frontward to rearward direction (rearward being toward rear wall means 18) so as to thereby increase the tilt, then the stack would become more unstable and likely fall, particularly when an end user pulls on a ticket, because of the increased rearward tilt. If the units 10 were offset (assuming this is possible) in a rearward to frontward direction (in a direction opposite the rear wall means 18), then the stack would no longer present the tilt or a smooth tilt designed to present a “striking appearance”. (Column 1, line 26). In either case, the functionality of the array would be destroyed. Further, the stacked array in Schafer cannot tilt for the purpose of providing more stability to the array. For, the user pulls out a ticket from dispensing means 16 which is on rear wall means 18, and, as seen in the figures, the array tilts rearwardly. For instance, a tilt towards the end user when the end user pulls out a ticket from the top unit 10 inherently renders the array less stable. If Schafer’s tilt was for purposes of increasing stability, then one would expect that the tilt would be away from the end user who presumably exerts some force to the stacked array in pulling the tickets out of dispensing means 16. Consequently, Applicants submit that the purpose of the tilt is merely aesthetic. Indeed, Shafer provides that the stacked array is supposed to “present a striking appearance” (column 1, lines 26, 35). Consequently, Schafer teaches away from a tilt designed to

enhance the stability of a stacked array. Further, from the end user's perspective, the tilt moves in a rearward to frontward direction as the array goes higher. Schafer, thus, fails to disclose a second sterilization case offset from a first sterilization case in a frontward to rearward direction.

Further, the tilt in Schafer occurs, at least in part, by providing each unit with a floor and a roof which diverge rearwardly (that is, they are non-parallel), the roof being non-horizontal (column 2, 39-47). As argued, Schafer works tirelessly to provide a "striking appearance" to the array of units 10 by providing a tilt towards the end user. Using horizontal/parallel top and bottom walls while still maintaining a tilt would likely render the array unstable; Schafer appears to need the nonparallel top and bottom walls to maintain stability while achieving a tilt. Stated another way, if Schafer used horizontal/parallel top and bottom walls while still maintaining a tilt, the function of the design in Schafer would be destroyed in that the stacked array would be too unstable and likely topple. Schafer, thus, teaches away from using units having top and bottom walls which are parallel to one another and horizontally oriented.

Further, Shafer does not disclose a sterilization case at all. Shafer discloses "a structure for the display and dispensing of game and like tickets" (column 1, lines 8-9). Further, Page 4 of the Office Action of July 16, 2007 states that the Official Notice in the Office Action of March 8, 2007 "is now being treated as a prior art admission."

Further, Applicants never conceded as true, nor do they concede as true, that "substantially parallel and fully parallel top and bottom walls and rear and front walls of stacked bins are well known and more typical than top and bottom walls which are slightly skewed from parallel." Applicants submit that evidence of such a statement should be provided for the record. Applicants submit that a "bin" is ambiguous and that the Office Actions of March 8 and July 16 do not define this word. Even assuming (for the sake of argument) that the statement in the

Official Notice is true, this says nothing about the bins being offset when stacked, and, as argued, neither does Schafer.

Regarding Liu in relation to claim 1, Applicants submit that this is somewhat confusing, as claim 1 does not explicitly call out a drawer prior to the current amendment. Even so, Schafer and Liu are not combinable, which is effectively addressed above. In any event, the function of Schafer would be destroyed if combined with Liu by providing drawers in the units 10. In Schafer, tickets 14 are dispensed out of dispensing means 16. That is, when the end user faces the stack so as to pull a ticket 14 out of dispensing means 16, the stack tilts toward the end user. Assuming that each unit 10 now includes a drawer, the stack would likely topple when, for instance, the drawer of the top unit 10 is pulled out. Liu also fails to show a sterilization case. Thus, Schafer and Liu fail to disclose sterilization cases offset in a frontward to rearward direction and each including at least one drawer therein selectively slidable from a closed position to an open position in a rearward to frontward direction.

Regarding claim 8, the arguments above relative to Schafer are also included here. Further, Trower et al. does not provide containers or trays with drawers. Further, Applicants submit that it would not have been obvious to use the handle design of Trower et al. with the units 10 of Schafer. Trower et al. suggests such a handle design so as to carry trays and tub together. Carrying an array of stacked units 10, as in Schafer, would be highly awkward given the tilt. Further, the storage assembly of Trower et al. is a single unit; the individual parts are not modular. As such, some mechanism for holding the assembly together is needed. This distinction between Trower et al. and Schafer leads to the position that Trower et al. and Schafer should not be combined. Trower et al. also fails to show a sterilization case. Thus, Schafer and Trower et al. fail to disclose a first sterilization case including at least one handle, a second sterilization case

including at least one recessed pocket, the handle interlocking with the recessed pocket when the second sterilization case is stacked upon the first sterilization case in a vertical direction.

Advantages of the present invention is that the sterilization cases are modular, that the interior of the cases can be accessed when the cases are stacked by pulling out a drawer from one or all of the cases without causing the stack of sterilization cases to fall, and have enhanced stability in light of the handle and recessed pocket arrangements.

For the foregoing reasons, Applicants submit that claims 1, 8, and 18, and claims 3-7, 9, and 19-23 depending respectively therefrom, are now in condition for allowance, which is hereby respectfully requested.

Claim 3 is assumed to be rejected under 35 U.S.C. § 103(a) as being unpatentable over Shafer in view of U.S. Patent No. 5,680,957 (Liu). However, claim 3 depends from claim 1, which is in condition for allowance for the reasons given above. Accordingly, Applicant submits that claim 3 is also now in condition for allowance, which is hereby respectfully requested.

Claims 4-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Shafer in view of Liu and further in view of U.S. Patent No. 5,078,460 (Holsinger). However, claims 4-5 depend from claim 1, which is in condition for allowance for the reasons given above. Accordingly, Applicant submits that claims 4-5 are also now in condition for allowance, which is hereby respectfully requested.

Claim 6 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shafer in view of Liu and Holsinger and further in view of U.S. Patent No. 6,395,234 (Hunnell et al.). However, claim 6 depends from claim 1, which is in condition for allowance for the reasons given above. Accordingly, Applicant submits that claim 6 is also now in condition for allowance, which is hereby respectfully requested.

Claim 7 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shafer in view of Liu and Holsinger and further in view of Trower et al. However, claim 7 depends from claim 1, which is in condition for allowance for the reasons given above. Accordingly, Applicant submits that claim 7 is also now in condition for allowance, which is hereby respectfully requested.

Claims 21 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lai in view of U.S. Patent No. 4,600,103 (Tabler). However, claims 21 and 23 depend from claims 1 and 18 respectively, which are in condition for allowance for the reasons given above. Accordingly, Applicant submits that claims 21 and 23 are also now in condition for allowance, which is hereby respectfully requested.

Claims 21 and 23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Schafer in view of Tabler. However, claims 21 and 23 depend from claims 1 and 18 respectively, which are in condition for allowance for the reasons given above. Accordingly, Applicant submits that claims 21 and 23 are also now in condition for allowance, which is hereby respectfully requested.

Claim 22 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Shafer in view of Trower et al. and further in view of Tabler. However, claim 22 depends from claim 8, which is in condition for allowance for the reasons given above. Accordingly, Applicant submits that claim 22 is also now in condition for allowance, which is hereby respectfully requested.

Claims 24 has been added to further protect the patentable subject matter of the present invention. Claim 24 recites in part “each of said plurality of sterilization cases is configured for providing organization, storage, and sterilization for at least one surgical instrument contained therein, said second sterilization case being offset from said first sterilization case in order to provide stability to said first and second sterilization cases when said second sterilization case is

stacked on said first sterilization case and any of said plurality of drawers are slid to said open position.” None of the prior art references, alone or in combination, disclose or suggest this patentable feature.

For the foregoing reasons, Applicants submit that no combination of the cited references teaches, discloses or suggests the subject matter of the amended claims. The pending claims are therefore in condition for allowance, and Applicants respectfully request withdrawal of all rejections and allowance of the claims.

In the event Applicants have overlooked the need for an extension of time, an additional extension of time, payment of fee, or additional payment of fee, Applicants hereby conditionally petition therefor and authorize that any charges be made to Deposit Account No. 20-0095, TAYLOR & AUST, P.C.

Should any question concerning any of the foregoing arise, the Examiner is invited to telephone the undersigned at (260) 897-3400.

Respectfully submitted,

/Kelly R. Bailey/

Kelly R. Bailey
Registration No. 57,284

Attorney for Applicant

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KRB/bd

TAYLOR & AUST, P.C.
142 S. Main Street
P.O. Box 560
Avilla, IN 46710
Telephone: 260-897-3400
Facsimile: 260-897-9300